106TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
106–1012

MINERAL REVENUE PAYMENTS CLARIFICATION ACT OF 2000

OCTOBER 26, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources, submitted the following

REPORT

[To accompany H.R. 4340]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4340) to simplify Federal oil and gas revenue distributions, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 4340 is to simplify federal oil and gas revenue distributions, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 4340 would amend the Mineral Leasing Act to change the method used to calculate amounts paid to States from federal onshore mineral leasing receipts.

Under the Mineral Leasing Act (30 U.S.C. 181 et seq.) the federal government has shared half of the rental payments, royalties and bonus bids received from onshore public domain mineral leases with the states hosting these leases for oil, gas, coal, sodium minerals, potash, phosphate and oil shale. Congress extended this same authority to the Secretary of the Interior for acquired federal mineral rights by the Act of August 7, 1947 (30 U.S.C. 351–359). This Act provided that the receipts from such mineral leases be shared with State and local governments in the same manner as is prescribed for other receipts from the lands covered by the lease, which may be more or less than 50 percent. For example, 75 percent of mineral receipts on Army Corps of Engineers-acquired lands

89–006

are returned to State and local governments. On National Forest lands acquired under the Weeks Act of 1911, only 25 percent of the mineral receipts are shared. In addition, under the President's Reorganization Plan No. 3 of 1946 (establishing the Bureau of Land Management), the Secretary of the Interior is authorized to lease minerals under acquired lands which would otherwise be locatable under the general mining laws, and to distribute the mineral receipts in the same manner as under the Act of August 7, 1947. Lead mines in the Mark Twain National Forest in Missouri return significant revenues to the State and local governments under this authority.

Importantly, under all these authorities, the States' shares are returned without further action by Congress (i.e., the receipts are treated as a permanent appropriation of funds). Many, if not most, of the States receiving mineral revenue payments have laws or State constitutional requirements to dedicate these receipts to educational purposes. States are able to forecast the amount of receipts to expect by comparison with other indicators of mineral prices and production levels, such as severance tax revenues.

For some six decades, the sharing of receipts with the States was done without respect to the costs of administering the leasing programs. This was known as "gross receipts sharing." During the Reagan Administration, the executive branch proposed a reduction in the permanent appropriation of the States' share by withholding 75 percent of the federal government's administrative costs before sharing the receipts. Congress rejected this diminution and amended the Mineral Leasing Act to expressly state that the revenue sharing payments to the States "shall not be reduced by administrative or any other costs" (Public Law 100–203).

Nevertheless, budgetary pressures remained and in the Department of the Interior and Related Agencies appropriations bill for fiscal year 1991, Congress ultimately agreed to a formula where half of the federal government's administrative costs to administer the Mineral Leasing Act would be deducted from the revenue stream before apportionment to the States, thus requiring public lands States to bear one-fourth of the federal government's cost. This system is known as "net receipts sharing."

For three fiscal years net receipts sharing was enacted as an annual rider to appropriation laws. States bore the burden of the federal government's costs based upon a pro rata or "revenue state share". This meant that if a State had generated 35 percent of all onshore mineral revenues to the U.S. Treasury in one year, then that State would have 35 percent of the federal government's cumulative costs allocated to it in the sharing formula.

In the 1993 Omnibus Budget Reconciliation Act, net receipts sharing was made permanent law, but with a somewhat different methodology. The Minerals Management Service (MMS, the Department of the Interior agency charged with determining each State's burden) is now required to calculate federal administrative actual costs incurred by the Bureau of Land Management, the U.S. Forest Service and the Minerals Management Service Royalty Management Program attributable to each State. This is to determine whether, because of economies of scale, a State's burden is less than it would be if calculated under the simple pro rata formula. Each year since enactment of this dual calculation requirement, the States of Wyoming and New Mexico have had a lessened net receipts sharing burden than under the appropriation law riders of Fiscal Years (FY) 1991–1993. For example, in FY 2000 the burden to Wyoming is $7.4 million rather than $13.7 million under the revenue state share. Likewise, New Mexico's FY 2000 burden is $5.5 million, but would have been $8.1 million under the pro rata formula methodology utilized initially.

However, the requirement to more equitably allocate the net receipts sharing burden for each State has proven difficult to administer. MMS must query two other agencies about their costs budgeted and spent within each State, and allocate nationwide overhead costs to each State's Bureau of Land Management, U.S. Forest Service and the MMS Royalty Management Program expenditures. Thus while the 1993 methodology is an improvement in fairness to States, it created an enormous uncertainty in the federal government's calculations compared to the 1991–1993 period. The Inspector General of the Department of the Interior audited the net receipts sharing program in 1997 and concluded that the new system practically guaranteed to cause errors in the proper allocation of costs to each State receiving revenues. A return to the 1920–1991 practice of gross receipts sharing obviates this calculation nightmare for allocating federal administrative costs fairly.

H.R. 4340 would repeal the current net receipts sharing formula of the Mineral Leasing Act and return the program to the gross receipts sharing requirement of the law prior to 1991. The result of this repeal is that States will receive approximately $20.5 million more annually, which monies most public land States dedicate for educational purposes.

Committee Action

Congressman Tom Udall (D–NM) introduced H.R. 4340 on April 13, 2000. The bill was referred to the Committee on Resources and within the Committee to the Subcommittee on Energy and Mineral Resources. On June 15, 2000, the Subcommittee held a hearing on the bill, hearing from witnesses from State governments, as well as from the Deputy Assistant Secretary of the Interior for Land and Minerals. On July 19, 2000, the Resources Committee met to consider the bill. The Subcommittee on Energy and Mineral Resources was discharged from further consideration of the bill by unanimous consent. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

Committee Oversight Findings and Recommendations

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

Constitutional Authority Statement

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, enactment of this bill would increase direct spending over the 2001–2005 time period.

3. Government Reform Oversight Findings. Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 8, 2000.

Hon. DON YOUNG,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: the Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4340, the Mineral Revenue Payments Clarification Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 4340—Mineral Revenue Payments Clarification Act of 2000

Summary: H.R. 4340 would amend the Mineral Leasing Act to change the method used to calculate amounts paid to states from federal onshore mineral leasing receipts. CBO estimates that enacting this bill would increase direct spending by about $111 million over the 2001–2005 period. Because the bill would affect direct spending, pay-as-you-go procedures would apply. Implementing H.R. 4340 also could affect discretionary spending, but we estimate that any such impacts would be less than $100,000 annually.

H.R. 4340 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Enactment of this legislation would benefit state and local governments by increasing the share of federal mineral revenues paid to the states.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4340 is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—				
	2001	2002	2003	2004	2005
CHANGES IN DIRECT SPENDING [1]					
Payments to States, under current law:					
Estimated budget authority	617	624	620	612	629
Estimated outlays	617	624	620	612	629
Proposed changes:					
Estimated budget authority	21	22	22	23	23
Estimated outlays	21	22	22	23	23
Payments to States under H.R. 4340:					
Estimated budget authority	638	646	642	635	652
Estimated outlays	638	646	642	635	652

[1] H.R. 4340 also could affect discretionary spending, but by less than $100,000 a year.

Basis of Estimate: For this estimate, CBO assumes that H.R. 4340 will be enacted near the start of fiscal year 2001.

Changes in Direct Spending: Under current law, a portion of the federal government's annual costs to administer onshore mineral leasing programs is deducted from gross onshore mineral receipts prior to making payments to states in the following year. States receive 50 percent of those net receipts, except Alaska, which receives 90 percent of net onshore mineral receipts generated in that state. H.R. 4340 would amend current law so that no federal administrative costs would be deducted from gross onshore mineral receipts before making payments to states.

According to the Minerals Management Service (MMS), the agency responsible for calculating these payments to states, about $21 million—18 percent of federal administrative costs for the onshore minerals management program incurred during 1999—will be deducted from payments made to states for fiscal year 2000. Under this bill, such deductions would no longer be made. As a result, based on information from the MMS, CBO estimates that enacting H.R. 4340 would increase direct spending for payments to states by $21 million in 2001 and by $111 million over the 2001–2005 period. That estimate assumes that federal costs for administering onshore mineral leasing will continue to be about $117 million a year (adjusted annually for inflation) and that, under current law, payments to states would be reduced by 18 percent of those administrative costs.

Changes in Discretionary Spending: By changing the formula for calculating payments to states, this legislation could affect administrative costs for the MMS. Based on information from the agency, however, we estimate that any changes in discretionary spending to calculate payments to states would be less than $100,000 a year.

Pay-As-You-Go Considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Because H.R. 4340 would increase direct spending for certain payments to states, pay-as-you-go procedures would apply. The net change in outlays that are subject to pay-as-you-go procedures is shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year, in millions of dollars									
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays	21	22	22	23	23	24	24	25	26	26
Changes in receipts	Not applicable									

Estimated Impact on State, Local, and Tribal Governments: H.R. 4340 contains no intergovernmental mandates as defined in UMRA. Enactment of this legislation would benefit state and local governments by increasing the share of federal mineral revenues paid to the states.

Estimated Impact on the Private Sector: This bill contains no new private-sector mandates as defined in UMRA.

Estimate Prepared by: Federal Costs: Megan Carroll. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Sarah Sitarek.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 35 OF THE MINERAL LEASING ACT

SEC. 35. (a) * * *

⟦(b)(1) In calculating the amount to be paid to States during any fiscal year under this section or under any other provision of law requiring payment to a State of any revenues derived from the leasing of any onshore lands or interest in land owned by the United States for the production of the same types of minerals leasable under this Act or of geothermal steam, 50 percent of the portion of the enacted appropriation of the Department of the Interior and any other agency during the preceding fiscal year allocable to the administration of all laws providing for the leasing of any onshore lands or interest in land owned by the United States for the production of the same types of minerals leasable under this Act or of geothermal steam, and to enforcement of such laws, shall be deducted from the receipts derived under those laws in approximately equal amounts each month (subject to paragraph (4)) prior to the division and distribution of such receipts between the States and the United States.

[(2) The proportion of the deduction provided in paragraph (1) allocable to each State shall be determined by dividing the monies disbursed to the State during the preceding fiscal year derived from onshore mineral leasing referred to in paragraph (1) in that State by the total money disbursed to States during the preceding fiscal year from such onshore mineral leasing in all States.

[(3) In the event the deduction apportioned to any State under this subsection exceeds 50 percent of the Secretary of the Interior's estimate of the amounts attributable to onshore mineral leasing referred to in paragraph (1) within that State during the preceding fiscal year, the deduction from receipts received from leases in that State shall be limited to such estimated amounts and the total amount to be deducted from such onshore mineral leasing receipts shall be reduced accordingly.

[(4) If the amount otherwise deductible under this subsection in any month from the portion of receipts to be distributed to a State exceeds the amount payable to the State during that month, any amount exceeding the amount payable shall be carried forward and deducted from amounts payable to the State in subsequent months. If any amount remains to be carried forward at the end of the fiscal year, such amount shall not be deducted from any disbursements in any subsequent fiscal year.

[(5) All deductions to be made pursuant to this subsection shall be made in full during the fiscal year in which such deductions were incurred.]

(b) In determining the amount of payments to the States under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.

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